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8 Maria Enrichetta Melzi Cargnani

9 UNITED STATES DISTRICT COURT

10 EASTERN DISTRICT OF CALIFORNIA

11 MARIA ENRICHETTA MELZI CARGNANI,

No.: 2:05-CV-00133-WBS-JFM

12 Petitioner,

13 vs.
**STATUS REPORT AND REQUEST FOR
CONTINUANCE OF STATUS
CONFERENCE; [PROPOSED] ORDER**

14 PEWAG AUSTRIA G.m.b.H., PEWAG
WEISSENFELS HOLDING A.G., PEWAG
15 WEISSENFELS INTERNATIONAL G.m.b.H.,
and AGYD PENGG, an individual,

Date: April 10, 2005
Time: 9:00 a.m.
Courtroom: 5

16 Respondents.

The Honorable William B. Shubb

17
18 Pursuant to Local Rule 16-240 and the Court's Order Setting Status (Pre-Trial Scheduling)
19 Conference, Petitioner Maria Enrichetta Melzi Cargnani ("Petitioner") hereby submits the following
20 Status Report and Request for Continuance of Status Conference:
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22

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24 **A. Summary of Claims**

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26 On or about September 17, 2003, Petitioner obtained an arbitration award in her favor and
27 against Respondents Pewag Austria G.m.b.H. ("Pewag Austria"), Pewag Weissenfels Holding A.G.
28 ("Pewag Holding"), Pewag Weissenfels International G.m.b.H. ("Pewag International") and Agyd

1 Pengg (“Pengg”)(collectively “Respondents”) in Trieste, Italy. The arbitration award provides that
2 Respondents shall pay to Petitioner the sum of 7,331,530.00 Euro plus interest from April 30, 2002
3 until payment. The arbitration award further provides that Pewag Austria, Pewag International and
4 Pengg shall pay to Petitioner the sum of 1,917,488.08 Euro plus interest from October 10, 2002 until
5 payment. Respondents are also required to pay the costs and fees for the arbitration as set forth in
6 the award. To date, Respondents have failed and refused to pay Petitioner the amount she is owed
7 under the arbitration award. As a result, Petitioner filed this Petition to Enforce Foreign Arbitral
8 Award.

9

10 **B. Status of Service**

11

12 Respondents are Austrian corporations and an individual who resides in Austria. Because
13 Austria is not a signatory to the Hague Convention, Petitioner must serve Respondents through the
14 process of Letters Rogatory. This process requires the assistance of the Austrian government.

15

16 After filing the Petition, Petitioner began the service process by having Letters Rogatory
17 prepared with a translation of the Petition and all papers issued by this Court. On March 16, 2005,
18 Petitioner filed with this Court Letters Rogatory for service upon Respondents Pewag Austria,
19 Pewag International and Pengg. Thereafter, this Court issued the Requests for International Judicial
20 Assistance to the Judicial Authority in Austria. And, Petitioner submitted appropriate documents to
21 the Department of State. As noted, Austria is not a signatory to the Hague Convention and,
22 therefore, Petitioner must effect service with the assistance of the Austrian government. The timing
23 for completion of the process is within the discretion of that government.

24

25 Given the complexity of this process, additional time is required to complete the service
26 process. Petitioner anticipates that service upon Respondents will take at least an additional six
27 months. Fed. R. Civ. P. 4(m); *See also Lucas v. Natoli*, 936 F.2d 432, 433 (9th Cir. 1991)(holding
28 requirement in Fed. R. Civ. P. 4 that service be effected within 120 days does not apply to service in

1 a foreign country).

2

3 **C. Possible Joinder of Additional Parties**

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5 Petitioner does not anticipate joining any additional parties at this time.

6

7 **D. Contemplated Amendments to the Pleadings**

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9 Petitioner does not anticipate joining any additional parties at this time.

10

11 **E. Statutory Bases for Jurisdiction**

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13 Petitioner brings this action pursuant to the Convention on the Recognition and Enforcement

14 of Foreign Arbitral Awards, 9 U.S.C. § 201 et seq. This Court has subject matter jurisdiction

15 pursuant to 9 U.S.C. § 203.

16

17 **F. Discovery Plan/Discovery Cut-Off**

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19 Pursuant to Federal Rule of Civil Procedure 26(a)(1)(E)(viii) and Local Rule 16-240(c),

20 Petitioner is exempt from the requirement of submitting a discovery plan because this action

21 involves a petition to enforce arbitration award.

22

23 **G. Request for Continuance/Other Issues**

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25 Petitioner respectfully requests the Court continue the Status Conference currently scheduled

26 for April 10, 2006, to October 16, 2006, given that she must serve Respondents through the Letters

27 Rogatory process. Petitioner anticipates that completion of the service process will take at least

1 another six months. Once service is complete, the Court and all parties will be in a position to
2 evaluate a timeline for resolution of this action.

4 DATED: March 27, 2006.

6 REED SMITH LLP

8 By

9 Karen A. Braje
10 Attorneys for Petitioner
Maria Enrichetta Melzi Cargnani

11
12 **ORDER**
13

14 In light of Petitioner's continued effort to effect service using the Letters Rogatory process,
15 this Court continues the Status Conference currently scheduled for April 10, 2006, at 9:00 a.m. to
16 October 23, 2006, at 9:00 a.m. in Department 5 of this Court.
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18 IT IS SO ORDERED.

19 DATED: March 28, 2006

20 
21 WILLIAM B. SHUBB
22 UNITED STATES DISTRICT JUDGE
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